

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

**UNITED STATES OF AMERICA,**

*Plaintiff,*

**v.**

**BILLY JAMES MENEES and  
ASHLEY DAWN MARIE SCHARDEIN,**

*Defendants.*

**Case No. 21-CR-151-TDD**

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**JOINT MOTION FOR ADDITIONAL TIME TO SUBMIT BRIEFING**

COMES NOW the United States of America, by and through United States Attorney Christopher J. Wilson and Assistant United States Attorney Nicole Paladino and submits this Joint Motion for Additional Time to Submit Briefing. Counsel for the Government has consulted with Ronald Gainor and Cody Cofer, Counsel for the Defendants, about this Motion and the Defendants both join in this Motion. The parties request an additional 60 days to fully brief the issue for the Court.

On May 12, 2021, the Defendants were charged by way of a two-count Indictment: Count One – Child Abuse in Indian Country, in violation of 18 U.S.C. §§ 1151, 1152, 2, & 21 Okla. Stat. § 843.5(A)(1), and Count Two – Child Neglect in Indian Country, in violation of 18 U.S.C. §§ 1151, 1152, 2, & 21 Okla. Stat. § 843.5(C). (Dkt. No. 23). On May 17, 2021, the Defendants were arraigned on the Indictment. (Dkt. Nos. 30 & 32).

Thereafter, on January 25, 2022, a Superseding Indictment (Dkt. No. 98) was rendered which expanded the timeframe of the previously charged conduct and specified that both Defendants are non-Indians. On February 1, 2022, the Defendants were arraigned on the Superseding Indictment. (Dkt. Nos. 109 & 110).

A Jury Trial commenced on February 14, 2023, and concluded on February 23, 2023. The duly sworn and empaneled jury found the Defendants guilty of Counts One and Two of the Superseding Indictment. Upon return of the verdict, the Defendants were remanded to the custody of the United States Marshals Service pending sentencing.

Defendant Schardein's sentencing was set on but then stricken from July 24, 2024, and Defendant Menees' sentencing was set on and then stricken from July 26, 2024. The sentencings were stricken due to the Tenth Circuit Court of Appeals issuing an unpublished Order on July 18, 2024, in *United States v. Shell*, 23-5086 (10<sup>th</sup> Cir, 2024). In this decision, the Circuit Court reversed a child abuse conviction from the Northern District of Oklahoma which was charged under the Assimilative Crimes Act. *Id.*

The issuance of the Order in *Shell* has prompted the Northern District of Oklahoma to seek approval to appeal that decision. A 60-day extension to track the appeal status would place parties in a better position to advise the Court of developments surrounding the Order and how it could affect this case, if at all. As such, the parties respectfully request that the Court grant an additional 60 days for adequate and complete briefing on this issue.

Respectfully submitted,

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s/ Nicole Paladino  
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**CERTIFICATE OF SERVICE**

I hereby certify that on August 6, 2024, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Ron Gainor, Attorney for Defendant Schardein  
Lynn Pierce, Attorney for Defendant Schardein  
Cody Cofer, Attorney for Defendant Menees  
Kara Carreras, Attorney for Defendant Menees

s/ Nicole Paladino  
NICOLE PALADINO  
Assistant United States Attorney